

Appl. No. 10/009,676
Amdt. dated Oct. 26, 2004
Reply to Office Action of Sept. 30, 2004

REMARKS

Claims 1-45 are pending in the above-referenced patent application. The Examiner has issued a three way restriction requirement alleging that there are three inventions claimed in the application. The Examiner has identified the allegedly different inventions in the following groups.

- I. Claims 1-19 and 26-45, drawn to a radiation source assembly.
- II. Claim 20 drawn to a process for treating liquids.
- III. Claims 21-25 drawn to a means for the transmission of electrical power and electrical signals.

Applicant hereby elects with traverse the invention corresponding to Group I, claims 1-19 and 26-45. Claims 20, and 21-25 are withdrawn.

In the Office Action, the Examiner has grouped claims 1 and 20 separately. Claim 1 is directed to an apparatus, namely, "A radiation source for use with a fluid," and claim 20 is directed to, "A process for treating liquids with ultraviolet light." Applicant respectfully submits that claims 1 and 20 should not have been deemed by the Examiner to be directed to different inventions.

As an initial matter, before requiring restriction, the Examiner must show either (1) that the process *as claimed* can be practiced by another materially different apparatus or by hand, or (2) that the apparatus *as claimed* can be used to practice another materially different process. The Examiner has made no showing whatsoever regarding points (1) and (2) above and in fact, the process as claimed cannot be practiced by another materially different apparatus or by hand. Nor can the apparatus as claimed be used to practice another materially different process. For at least this reason the restriction requirement as it pertains to Groups I and II should be withdrawn.

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In addition, Applicant submits that claim 1 is a linking claim, which if allowed, will prevent restriction between claims 1 and 20. Claim 1 includes language that links the inventions of groups I and II and recites "means" for practicing the process disclosed in claim 20 thereby properly linking the apparatus and process of Groups I and II respectively. Claims 1 and 20 read as follows:

1. (Original) A radiation source assembly for use with a fluid, comprising:

at least one radiation source adapted to be immersed in said fluid when the assembly is in use, the source producing radiation by excitation of a gas;

at least one excitation controlling means for controlling excitation of the gas within the radiation source, said excitation controlling means being adapted to be immersed in said fluid when the assembly is in use;

an elongate frame member having a portion adapted to be immersed in the fluid when the assembly is in use, the frame member being connected to at least one of the radiation source and the excitation controlling means; and

electrical conducting means for providing electrical energy to the excitation controlling means.

20. (Original) A process for treating liquids with ultraviolet light comprising passing the liquid over an ultraviolet lamp and ballast assembly which is submerged in the liquid.

Claim 1 discloses "at least one radiation source adapted to be immersed in said fluid when the assembly is in use, the source producing radiation by excitation of a gas. Claim 20 employs an ultraviolet light submerged in liquid. An ultraviolet light is a radiation source that produces radiation by excitation of a gas. In addition, claim 1 recites "at least one excitation controlling means for

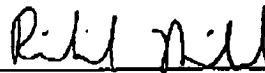
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controlling excitation of the gas within the radiation source, said excitation controlling means being adapted to be immersed in said fluid." Claim 20 recites a "ballast assembly which is submerged in the liquid." The ballast assembly of claim 20 is clearly an excitation control means as set forth in claim 1. For at least these reasons, claim 1 links the inventions of Groups I and II so that if the linking claim is allowed, rejoinder of the divided inventions must be permitted.

Based on the foregoing, Applicant respectfully contends that Groups I and II are not subject to restriction and an early action to that effect is solicited. If any matter remains unresolved Applicant requests that the Examiner contact Applicant's representative at the number listed below. While Applicant believes that no fees are due upon filing this response, please charge any deficiencies in fees to Deposit Account No. 13-0235.

Respectfully submitted,

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